



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Proposed Revised Collection, Comment

Request: “Real Time Public Reporting”

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the revision of an information collection by the agency. Under the Paperwork Reduction Act of 1995 (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each revised collection of information and to allow 60 days for public comment. The Commission recently adopted a final rule amending requirements for the real-time public reporting and dissemination of swap data. This notice solicits additional comments on certain estimated costs and burdens associated with the amended requirements.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “Real Time Public Reporting, OMB Control No. 3038-0070,” by any of the following methods:

- The Agency’s web site, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the web site.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Meghan Tente, Acting Deputy Director, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5785, email: mtente@cftc.gov, and refer to OMB Control No. 3038–0070.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed information collection including each proposed revision or extension of an existing information collection, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Real Time Public Reporting and Block Trades (OMB Control No. 3038-0070). This is a request for comment on a currently approved information collection.

Abstract: The collection of information is needed to ensure that swap data repositories publicly disseminate swap data as required by the Commodity Exchange Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The Dodd-Frank Act directed the CFTC to adopt rules providing

for the real-time public reporting and dissemination of swap data and rules for block trades.

On September 17, 2020, the Commission adopted a rulemaking amending its part 43 regulations.¹ In the release accompanying the Final Rule, the Commission included some cost and burden estimates that were not included in the Proposal, including changes to some of its previous estimates.² The Commission explains these cost and burden estimates further below and invites comment on any new or revised estimates.

1. Amendments to Regulation 43.3

In the Proposal, the Commission omitted the aggregate reporting burden for proposed § 43.3 (as well as § 43.4) and instead provided PRA estimates for all of part 43. The Final Rule included the estimated aggregate reporting burden for § 43.3 as follows:

Estimated number of respondents: 1,729 SEFs, DCMs, and reporting counterparties.

Estimated number of reports per respondent: 2,998.

Average number of hours per report: 0.067.

Estimated gross annual reporting burden: 725,696.

Existing § 43.3 requires reporting counterparties to send swap reports to swap data repositories (“SDRs”) as soon as technologically practicable after execution. The Commission did not include any burden estimates in the Proposal related to the

¹ The Commission proposed the amendments to Part 43 in February 2020. Real-Time Public Reporting Requirements, 85 FR 21516 (Apr. 17, 2020) (the “Proposal”). The final rule was published in the *Federal Register* on November 25, 2020 (the “Final Rule”).

² In the final rule, the Commission revised the information collection to reflect the adoption of amendments to part 43, including changes to reflect adjustments that were made to the final rules in response to comments on the Proposal (not relating to PRA). In the Proposal, the Commission omitted the aggregate reporting burden for proposed § 43.3 and § 43.4 in the preamble and instead provided PRA estimates for all of part 43. In the final rule, the Commission included PRA estimates for final § 43.3 and § 43.4 which are set forth below. In addition, in the final rule, the Commission revised the information collection to include burden estimates for one-time costs that SDRs, SEFs, DCMs, and reporting counterparties could incur to modify their systems to adopt the changes to part 43, as well as burden estimates for these entities to perform any annual maintenance or adjustments to reporting systems related to the changes. These estimates are also set forth below. The Commission did not include PRA estimates for all of part 43 in the final rule as the final rule only affects PRA estimates for § 43.3 and § 43.4. However, PRA estimates for all of part 43 are included in the supporting statement being filed with OMB in connection with the final rule.

modification or maintenance of systems in order to be in compliance with the proposed amendments to § 43.3.³ However, for the Final Rule, the Commission recognized certain entities would incur start-up costs to modify their reporting systems and operational costs to maintain them going forward to adopt the changes to § 43.3⁴ in the Final Rule, as explained below.

In the Final Rule, the Commission estimated the cost for a reporting entity, including designated contracts markets (“DCMs”), derivatives clearing organizations (“DCOs”), major swap participants (“MSPs”), swap dealers (“SDs”), non-SD/MSP/DCO counterparties, and swap execution facilities (“SEFs”), to modify their systems and maintain those modifications going forward to adopt the Final Rule could range from \$24,000 to \$74,000 per entity. There are an estimated 1,732 reporting entities, for a total estimated cost of \$84,868,000.⁵ As described in the final rule, the estimated cost range is based on a number of assumptions that cover tasks required to design, test, and implement an updated data system based on the new swap data elements contained in part 43.

In the Final Rule, the Commission further estimated that the cost for an SDR to modify their systems, including their data reporting, ingestion, and validation systems, and maintain those modifications going forward may range from \$144,000 to \$510,000 per SDR. There are currently three SDRs, for an estimated total cost of \$981,000.⁶

³ The supporting statement for part 43 submitted for the Proposal only showed negative incremental changes in Attachment A (*e.g.*, showed a negative adjustment of 30,300 responses and negative 2,030.10 burden hours).

⁴ The Commission did not include any burden estimates in the final rule related to the modification or maintenance of systems in order to be in compliance with the amendments to § 43.4. To avoid double-counting, the Commission included the costs associated with updates to § 43.4 in the estimates for § 43.3, as they would be captured in the costs of updating systems based on the list of swap data elements in part 43. As noted above, the Commission is soliciting comments on the revised burden estimates for part 43 that are being adopted in the final rule.

⁵ Based on the Commission’s eight years of experience in administering the existing real time reporting regulation, the Commission believes that the costs to reporting entities to implement the final rule will be on the lower end of the range, closer to \$24,000 than to \$74,000.

⁶ As described in the Final Rule, the estimated cost ranges are based on a number of assumptions that cover the set of tasks required for the SDR to design, test, and implement an updated data system based on the new swap data elements contained in part 43.

2. Amendments to Regulation 43.4

In the Final Rule, the Commission estimated that the amendments would reduce the number of mirror swaps SDRs would need to publicly disseminate by 100 reports per each SDR, for an aggregate burden hour reduction of 20.10 hours. In addition, the Commission estimated that the aggregate reporting burden total for § 43.4, as adjusted for the reduction in reporting by SDRs of mirror swaps, is as follows:

Estimated number of respondents: 3.

Estimated number of reports per respondent: 1,499,900.

Average number of hours per report: 0.009.

Estimated gross annual reporting burden: 40,497.

The Commission did not include any burden estimates in the Proposal related to the modification or maintenance of systems in order to be in compliance with the proposed amendments to § 43.4. To avoid double-counting, the Commission included the costs associated with updates to § 43.4 in the estimates for § 43.3 discussed above, as they would be captured in the costs of updating systems based on the list of swap data elements in part 43.

The Commission is soliciting comments on the above burden estimates for part 43, including the estimated costs related to the modification or maintenance of systems in order to be in compliance with the amendments to § 43.3 that are being adopted in the Final Rule, in this separate 60-day notice being published in the Federal Register.

With respect to the collection of information, the Commission invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

- The accuracy of the Commission’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate electronic, or other forms of information technology, *e.g.*, permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the CFTC to consider information that you believe is exempt from disclosure under the Freedom of Information Act (“FOIA”), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the CFTC’s regulations.⁷

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

Burden Statement: Provisions of CFTC Regulations 43.3, 43.4, and 43.6 result in information collection requirements within the meaning of the PRA. With respect to the ongoing reporting and recordkeeping burdens associated with swaps, the CFTC believes that SDs, MSPs, SEFs, DCMs, DCOs, and non-SD/MSP/DCO counterparties incur an

⁷ 17 CFR 145.9.

annual time-burden of 771,831 hours. This time-burden represents a proportion of the burden respondents incur to operate and maintain their swap data recordkeeping and reporting systems.

Respondents/Affected Entities: SDs, MSPs, and other counterparties to a swap transaction (*i.e.*, non-SD/MSP/DCO counterparties).

Estimated number of respondents: 1,732.

Estimated average burden hours per respondent: 445.

Estimated total annual burden hours on respondents: 771,831 hours.

Frequency of collection: Ongoing.

Capital or Operating and Maintenance Costs: \$ 85,849,000.⁸

(Authority: 44 U.S.C. 3501 et seq.)

Dated: November 27, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020-26557 Filed: 12/1/2020 8:45 am; Publication Date: 12/2/2020]

⁸ In the Proposal, the Commission omitted the aggregate reporting burden for proposed § 43.3 and § 43.4 in the preamble and instead provided PRA estimates for all of part 43. In the final rule, the Commission included PRA estimates for final § 43.3 and § 43.4 because these are the only sections of part 43 affected by the final rulemaking. Attachment A to the supporting statement for the Proposal only showed the changes in the burden estimates for § 43.3 and § 43.4 for the Proposal. For the Final Rule, the Commission revised Attachment A to the supporting statement that was filed with OMB to include aggregate burden estimates for all requirements in the collection. The estimates in the supporting statements for the Final Rule are consistent with the estimates shown in the Burden Statement above (e.g., the supporting statement for the Final Rule reflects that there are 1,732 respondents and that the total annual number of burden hours across all respondents is 771,831.)